

PROPOSED CHUITNA COAL PROJECT BRIEFING for TLS

April 2012

- Key Issues:**
- Background and update on current status of the Chuitna Coal Project
 - Outcomes, commitments, and follow-up from August 11, 2011, meeting in Tyonek
 - Latest requests from NVT for G2G meetings with RA and recommendations for response

Project Description

Large scale surface coal mine proposed in south central Alaska, near the Native Village of Tyonek and community of Beluga, approximately 45-miles west of Anchorage on west side of Cook Inlet. Project proponents (PacRim Coal) hold ~20,000 acre lease track within the Beluga Coal Fields, estimated at 1 billion metric tons of coal. Project involves mining one ~5,000 acre unit (Logical Mining Unit 1), with mineable coal reserves of ~250 million metric tons (MMT). Life of mine expected to be 25 years at annual production rate of 12 MMT, making it the largest coal mine in Alaska (current largest is Usibelli=1.5 MMT annually).

Three major project components include: 1) upland coal mine; 2) project infrastructure connecting mine to Cook Inlet, and; 3) Ladd Landing coal export terminal on coast of Cook Inlet. Area is currently undeveloped with minimal infrastructure. Coal would be mined, transferred 12 miles to export terminal via conveyor, and loaded onto barges/tankers for shipment to Pacific markets including Asia and potentially South America.

Project Background

- Project originally permitted and reviewed in late 1980's, but never moved forward.
- Project permitting and environmental review restarted in 2006. EPA determined a Supplemental Environmental Impact Statement would be required, assumed lead agency with Corps of Engineers (CWA 404, Section 10), Alaska DNR (ASMCRA, other state permits), US Fish and Wildlife (advisory) and NVT (special expertise) serving as cooperating agencies.
- When State assumed NPDES delegation for mining sector in 2010 EPA transferred role of lead agency for SEIS to Corps of Engineers (no EPA-issued NPDES permit=no EPA NEPA action=no EPA lead agency status). EPA assumed cooperating agency role, with USFWS, NVT, and Alaska DNR also continuing as cooperating agencies. Health Impact Assessment lead transferred to State of Alaska.
- Project will result in significant impacts to wetlands, surface and groundwater, fisheries, NVT cultural and subsistence resources, terrestrial environment, etc.

EPA's Role

- Cooperating agency status in SEIS
- CWA 402 and 404 oversight, potential review of applicants pending site specific water quality criteria proposal to Alaska DEC, which, if adopted/approved, would need ultimate approval from EPA WQS program.
- CAA 309 NEPA review

NEPA/Project Status

- The Corps anticipates release of preliminary draft SEIS in late 2012; draft SEIS for public review 2-3 months later.
- SEIS schedule originally planned for early April will now be updated pending receipt of certain deliverables from applicant (e.g., updated groundwater model and water management plan, updated wetland methodology, etc.). Schedule for getting schedule unknown.
- EPA and Corps staff held conference call in March with Cook Inlet Tribal Governments to discuss the National Historic Preservation Act Section 106 Programmatic Agreement being prepared for potential cultural resource impacts. EPA was lead in Section 106 compliance and development of the PA, but has since passed to Corps along with SEIS lead (no NPDES permit=no Section 106 compliance)

responsibility). EPA participation was for background and history of process, etc. Corps updating PA for distribution to tribes and ultimately signature.

- Sub-contractor for Corps and applicant has put together a Health Impact Assessment team and has prepared a scope of work for filling in remaining data gaps required for completion of HIA. Scope of work calls for survey of all NVT residents (≥ 18 yrs) to establish baseline medical history and nutritional data and completion of HIA report. Also proposing hair samples for baseline mercury data.
- EPA comments on preliminary draft Alternatives Analysis and Past, Present, and Reasonably Foreseeable Future Actions due on April 23, 2012.
- EPA comments on proposed methodology for cumulative impacts assessment were largely accepted by the Corps. Main issue was tying the temporal scope of cumulative impacts analysis to SMCRA bonding provisions, rather than the length of time cumulative impacts are anticipated to occur.
- Applicant's contractor preparing revised methodology for wetlands functional assessment for agency review; draft expected April 30, 2012.

Consultation

- NVT has requested formal government-to-government consultation meetings with EPA R10 RA, Alaska DNR, and USFWS leadership, with separate consultation/coordination agreements (i.e., MOU's) between NVT and agencies.
- The Corps has developed a G2G consultation agreement with NVT. Corps has met with NVT on numerous occasions at the staff level, and Colonel Koenig has traveled to NVT for official G2G leadership meetings at least twice since the transition of lead agency.
- The USFWS declined formal government-to-government consultation, citing ongoing coordination and working relationship with NVT throughout SEIS process. USFWS has tentatively scheduled a consultation meeting with NVT in Tyonek for June 9, 2012. ADNR's response was similar (i.e., no need for additional venue for consultation/coordination beyond existing and ongoing coordination and communication between NVT and agencies).

August 11 Meeting in NVT and Latest Requests for G2G

In response to NVT's initial request for a G2G consultation meeting over the summer of 2011, on August 11, 2011, several EPA representatives went to Tyonek to meet with the NVT Tribal Council and President for a G2G leadership meeting. Rick Parkin represented EPA leadership.

During the meeting NVT leadership expressed their concerns with the project and regulatory review process, and EPA provided a detailed description of our roles and responsibilities in project, and agreed to some follow up items and commitments.

Major concerns we heard from NVT

- Impacts to the salmon resources of the Chuitna watershed, resulting in impacts to their subsistence lifestyle, tradition and culture (i.e., "salmon=life at NVT").
- Impacts to surface water from exposure/disturbance of coal, fugitive dust, overburden stockpiles, etc.
- Impacts from dewatering to water levels of the Chuitna watershed and drinking water (well and surface).
- Global transport of mercury, climate change from burning coal, and impacts from coal dust locally.
- Perceived lack of objectivity by the State of Alaska in reviewing the project (i.e., "marketing the coal prior to actually permitting/approving the project"), and implications for enforcement of Clean Water Act, etc.
- Post-mining restoration of the system will not be possible (i.e., "once you dig it up it will never be the same").
- Impacts to human health and on future generations.
- Coastal erosion and sedimentation from the coal export terminal and conveyor/trestle.
- Perceived no benefit for State of Alaska or NVT from the project

Commitments and agreements EPA made with NVT

- Agreed that future G2G leadership meetings should occur at meaningful points in the process, when there's an action EPA is considering, when there is an opportunity for meaningful NVT input, or when there is a significant issue to discuss.
- Agreed to make staff available to discuss issues, and to assist with technical questions and concerns as needed. This is ongoing.
- Committed to developing a fact sheet document laying out EPA's roles and responsibilities in the project, and at what points within those processes we believe meaningful consultation can occur. A draft has been developed.
- Agreed to work with NVT on developing a formal agreement (e.g. MOU) laying out our relationship with NVT moving forward, EPA's roles and responsibilities in the project, and at which point we can and will engage in meaningful consultation. A draft has been developed.
- Agreed to discuss the water quality standards work and APDES permitting with the State of Alaska and ACOE and determine how those schedules will coordinate with the NEPA/SEIS schedule. This is ongoing.
- Committed to close oversight of APDES permit for the project.
- Agreed to look into hosting a mining training à la the Mining 101 course that has been provided to Tribes in the past, contingent on resources. ETPA is looking into options for Tribal assistance with resource extraction projects.
- Committed to exploring other options for assisting NVT and other Native Villages with technical aspects of large resource extraction projects. ETPA is looking into options for Tribal assistance with resource extraction projects.
- Committed to continue to work closely with NVT, and to keep this project a high priority for the Region.

Latest requests for G2G Meeting with RA

- In January 2012, the Office of the Executive received another request for a leadership meeting between Mr. McLerran and NVT leadership. The request indicated that an audience with Administrator Jackson would also be requested in the spring of 2012. No specific agenda or discussion topics were provided. A follow-up call between the Senior Tribal Policy Advisor and NVT's President took place in February.

Next Steps & Recommendations

- A fact sheet outlining EPA's regulatory roles and responsibilities in the Chuitna Coal Project and a draft Memorandum of Understanding/Tribal Consultation Plan has been prepared for the NVT and is currently in routing for review and concurrence by ORC, OWW, and ETPA. Cover letter to be signed by Mr. McLerran requesting NVT review of MOU and extending an invitation for a conference call with NVT President Frank Standifer and/or the NVT Tribal Council within the next several weeks.
- A conference call between the RA and NVT leadership may be a good middle ground at this juncture. While there would be no EPA action to discuss, the RA could listen to NVT's concerns and assure them that this project is a priority for the Region, and that we will be consulting at appropriate decision points during the project. If accepted, setting up a conference call should be referenced in the response letter.
PLEASE NOTE: NVT leadership will be at the Tribal Leaders Summit, so RA should be prepared for hallway discussions.

Staff Contacts:

Jamey L. Stoddard, OWW Project Lead (206-553-6110)

Katherine Brown, Southcentral Alaska Tribal Coordinator (206-553-7263)